IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5171 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RABARI KALIBEN WD/O DHIRUBHAI HARJIBHAI

Versus

PATEL RAJENDRABHAI AMBALAL

Appearance:

1. First Appeal No. 5171 of 2001

MS KHYATI P HATHI for Petitioner No. 1-2

SERVED BY RPAD - (N) for Respondent No. 1-2

MR PV NANAVATI for Respondent No. 3

MR VIBHUTI NANAVATI for Respondent No. 3

DELETED for Respondent No. 4-5

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE KUNDAN SINGH

Date of decision: 16/12/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

Before effective hearing of this matter learned Counsel Shri Hathi for the Appellant - original claimant, sought permission to reduce the claim from Rs.2 lacs to

Rs.70,000/-. Permission granted. Accordingly, the claim is reduced to Rs.70,000/-.

2. It is heartening to note that the respondent Insurance Company United India Insurance Company Ltd., has responded the order dated 18.11.2002 passed by this Court in this Appeal and agreed to pay additional lumpsum amount of Rs.70,000/- (Rupees seventy thousand only) in addition to what has been awarded by the learned Tribunal to the present appellant claimant towards full and final settlement in the matter between the appellant and the respondent - Insurance Company. Shri P.V.Nanavati, learned Counsel appearing for the United India Insurance Co. Ltd. places on record a letter dated 28.11.2002 addressed by the Deputy Manager of the respondent Insurance Company to him, which is ordered to be taken on record. In that letter the Insurance Company has stated that they are agreeable to the suggestion made by learned Counsel Shri Nanavati in his letter dated 20.11.2002 to deposit additional sum of Rs.70,000/- towards full and final settlement in the matter with the present appellant.

3. Shri Nanavati further states that the Insurance Co. shall deposit the additional sum of Rs.70,000/before the Registrar of this Court within 3 weeks from today. On depositing the said amount the present appellant No.1 Rabari Kaliben widow of Dhirubhai Harjibhai shall be paid Rs.20,000/- by A/c. Payee cheque in her name. Out of remaining amount of Rs.50,000/-, Rs.25,000/- shall be deposited in the Fixed Deposit in the name of appellant No.1 Rabari Kaliben widow of Dhirubhai Harjibhai for a period of 6 years. She will not be entitled to withdraw any amount before its maturity date. She will also not be entitled to draw any loan on the said amount without prior permission of this Court. However, she shall be paid periodical interest on the said amount of Rs.25,000/-. On its maturity she will be paid the said amount with interest thereon.

4. Remaining amount of Rs.25,000/- shall be deposited in the name of appellant No.2 - minor Alpesh, through his next friend and guardian Kaliben Dhirubhai, his mother, till the minor Alpesh attains majority. The appellant No.2 or his mother will not be entitled to withdraw any amount before its maturity date. They will also not be entitled to draw any loan on the said amount without prior permission of this Court. However, they shall be paid periodical interest on the said amount of Rs.25,000/-. On attaining the majority the appellant No.2 Alpesh shall be paid the entire amount of Rs.25,000/- with interest thereon by way of A/c payee cheque in his name.

5. In view of above statement made at the Bar by Shri P.V.Nanavati for the respondent - Insurance Company Shri Hathi seeks permission to withdraw this Appeal. Permission granted. Accordingly the Appeal shall stand disposed of as withdrawn. Notice discharged.

(B.J.Shethna, J.)

Date : December 16, 2002

(Kundan Singh,J.)

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